

VIA ECF

May 5, 2023

The Honorable Lorna G. Schofield
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: SEC v. Klein, et al., 1:22-cv-06426-LGS

Dear Judge Schofield:

Pursuant to this Court's Memo Endorsement, ECF No. 41, Plaintiff Securities and Exchange Commission ("SEC") and Defendants Eduardo Rubinstein and Mark Klein submit this joint status letter regarding the resolution of the amounts of civil penalties in this case.

Following conferral regarding potential discovery that may be needed to resolve the issue of penalties, the parties have agreed that, in lieu of discovery, Defendant Eduardo Rubinstein shall provide the SEC with an accounting that complies with Attachment A, hereto. The purpose of the accounting is to (1) avoid the time and expense of conducting discovery, while still (2) providing the SEC with the information that it would have requested through discovery, including (a) Defendants' assets available to satisfy a judgment in this case, (b) assets that may once have been available to satisfy a judgment in this case but have been transferred out of Defendant's control, and (c) assets that remain in Defendant's control but that Defendant claims are legally unavailable (*e.g.*, under the Florida homestead exemption) to satisfy a judgment in this case.¹

The parties respectfully submit that a sworn accounting is the most efficient way for the parties to deal with any factual issues that may be relevant to the resolution of the matter of civil penalties. Accordingly, and mindful of the Court's appraisal, *see* ECF No. 41, the parties propose the following schedule for the resolution of the amount of civil penalties in this case:

- Defendant's sworn accounting provided to SEC: May 12, 2023;
- SEC Motion/Opening Brief: May 26, 2023;
- Defendants' Response Briefs: June 16, 2023;
- SEC Reply Brief: June 30, 2023.

¹ Defendant Mark Klein does not intend to raise any factual issues outside of the complaint or the public record in support of his arguments in favor of a lower civil penalty amount and is not, therefore, submitting an accounting.

Respectfully submitted,

s/ Brendan White

Brendan White
Anthony DiPietro

s/ Joseph Bondy

Joseph A. Bondy

s/ Ian J. Kellogg

Ian Kellogg
Mark Williams

*Attorneys for Defendant Mark
Klein*

*Attorneys for Defendant
Eduardo Rubinstein*

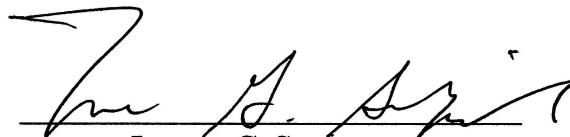
*Attorneys for Plaintiff
Securities and Exchange
Commission*

Application **GRANTED**. Defendant Rubenstein shall provide to the SEC the referenced accounting by **May 12, 2023**. The SEC's motion for civil penalties as to both Defendants shall be briefed as follows:

- By **May 26, 2023**, the SEC shall file its motion, with a memorandum of law in support not to exceed twenty-five pages.
- By **June 16, 2023**, Defendants shall file their oppositions, not to exceed twenty-five pages.
- By **June 30, 2023**, the SEC shall file its reply, not to exceed ten pages.

The parties shall comply with the Court's Individual Rules concerning motions.
So Ordered.

Dated: May 5, 2023
New York, New York



LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE